REMARKS

Claims 21, 24-29, 31-36 and 38 remain in the application. The rejection of claims 21, 24-29 and 31-36 and 38, based on Wong-Insley (U.S. 6,131,166) in view of Gloudeman (U.S. 6,028,998) and in further view of Anderson (U.S. 7,293,261) or Hammond (U.S. Pub. 6,336,118) has been withdrawn. All of the claims now stand rejected under Section 103 based on a new combination of Gloudeman (U.S. 6,028,998) in view of Azarya (U.S. 5,978,578).

Having carefully considered the new citations relied upon in the prior art, applicants again request reconsideration and allowance over the prior art for reasons similar to the argument which has resulted in withdrawal of both the prior final rejection and the prior non-final rejection. The claims need not be further amended to establish that they do distinguish over the prior art.

As noted in earlier papers presented to the Examiner, the independent claims 21 and 29 are each directed to a system or method for programming an automation system or an automation device. Now, Gloudeman replaces Wong-Insley as the primary reference, because Wong-Insley is not at all concerned with programming of automation systems or devices, and Azarya replaces Gloudeman as the secondary reference in an effort to comensate for the deficiencies in Gloudeman. However, the combination of Gloudeman (U.S. 6,028,998) in view of Azarya (U.S. 5,978,578) still fails to meet the terms of the independent claims 21 and 39. In this regard, the rejection has at least two deficiencies.

First, it is noted that claim 21 requires

"editors and compiler providing an automation functionality in a standard framework for application among automation devices having different command sets for being programmed."

In this regard, the passage of Gloudeman relied upon for this claimed subject matter does not disclose or suggest what is so claimed. Specifically, col. 2, lines 27-32 discloses a framework which is consistent for building an automation framework – "a scalable architecture that will function on a wide range of processor platforms ... However, none of the citation discloses or suggests the feature of providing a

functionality among automation devices having different command sets. While this prior art does not preclude such, it clearly does not disclose such. Thus there is no motivation for combining the references to re-create the invention from the prior art. There is no basis for obviousness.

Second, even if there were a basis for combining the references, the combination which would result would not be the same as that which is claimed. Azarya has been relied upon because, as stated at page 4 of the office action, the Examiner acknowledges that Gloudeman does not disclose

"a compiler for translating the solutions into an intermediate language in a runtime framework for further translation into different instructions for automation devices in different automation systems."

However, this deficiency cannot be remedied by Azarya because the compiler of Azarya does not "translate solutions into an intermediate language in a runtime framework for further translation into different instructions for automation devices in different automation systems" as argued in the rejection. A reading of the cited passage (col. 3, lines 16-32 of Azarya) confirms that the reference merely discusses generating a p=code to be executed on a target system, i.e., one system. There is no suggestion of

"an automation functionality in a standard framework for application among automation devices having different command sets ..."

and there is no disclosure in either reference of

"a compiler for translating the solutions into an intermediate language in a runtime framework ..."

and there is no disclosure of

"further translation into different instructions for automation devices in different automation systems ..."

Also, it must be stressed that the citation of Gloudeman for the last element of claim 21 is in error. That last element, is directed to automation device-specific adapter with

"each adapter providing a translation of a solution into instructions which can be interpreted by an automation device in a different automation system ..."

This feature is not at all suggested by the citations of col. 2, lines 62-66 and 41-48 of Gloudeman as argued at page 3 of the office action.

In summary it cannot be seen that the subject matter of claim 29 is taught or suggested by any combination of the prior art. Although the wording of independent claim 29 differs from that of claim 21, a reading of claim 29 confirms that substantially the same deficiencies exist in the application of Gloudeman (U.S. 6,028,998) in view of Azarya (U.S. 5,978,578) to reject claim 29.

Also of importance, the combination would not result in the invention except for hindsight reconstruction according to the applicants' teachings. That is, none of the prior art identifies the problems the applicants solve, or any other reason to make the combination which is claimed. The features of the storage medium according to independent claim 29 include a software system for providing a "programming environment to create device-independent functionality among automation devices in an automation system ..." The references are each directed to different problems, and the piecemeal extraction of features from each amounts to no more than a hindsight reconstruction of the invention.

As noted in earlier papers presented to the Examiner, MPEP Section 2142 describes the tendency to resort to hindsight based on the applicants' disclosure and that this is often difficult to avoid due to the nature of the examination process. Nonetheless, such hindsight must be avoided. This hindsight is especially apparent based on the effort to read applicant's compiler (see claims 21 and 29) on the disclosure of Azarya. Previously Anderson and the Becker reference were each relied upon for the same. It is only with the claimed arrangement (see claim 21) that one solution can be developed for

multiple automation devices and then translated into instructions for automation devices in different automation systems.

Even if there was an ability to meet all of the terms of the claims by combining the references as proposed in the new rejection, there would still be no teaching to form a basis for obviousness. There is no precedent to use the components to achieve the claimed functions. No one, without knowledge of the present application, would look to these references to create that which is now claimed. As an example, it should be noted that the claimed compiler, providing an intermediate language, in combination with an "automation device-specific adapter for each of the automation devices" not only results in each adapter providing a translation of a solution into instructions, but also reduces the quantity of compilers used for developing an automation solution. Otherwise, each programming language of each editor used would have to be translated with a special compiler for the target platform. The prior art combination used to reject the claims would still require $n*m$ compilers for m editors and n automation devices. As a feature of the claimed invention, only $n + m$ compilers are required to implement a specific automation solution. This is not at all recognized by the art of record.

If the Examiner disagrees with any of the foregoing, the applicant requests that the Examiner provide a complete response so that applicants can reassess whether the rejection has any merit. Although the foregoing argument was expressly presented with reference to claim 21, it is applicable to claim 29 and all of the dependent claims.

CONCLUSION

For the above reasons the new combination of prior art does not provide a basis to reject any of the claims. In summary, there is no basis for rejecting the claims. Removal of the rejection is therefore required.

The application is in condition for allowance. The Commissioner is hereby authorized to charge any appropriate fees due in connection with this paper, including the fees specified in 37 C.F.R. §§ 1.16 (c), 1.17(a)(1) and 1.20(d), or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

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By: _Janet D. Hood_

Janet D. Hood
Registration No. 61,142
(407) 736-4234

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, New Jersey 08830